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Attorney Docket No. FPY-048.04

REMARKS

Claims 1-61 are pending in the application. Claim 62 has been added. Support for this claim can be found throughout the specification, including the claims as originally filed. No new matter has been added.

Claims 1-61 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. 6,016,845 (the '845 patent) in view of Charboneau, U.S. Patent 5,551,484. As the Examiner knows, obviousness-type double patenting requires rejection of an application only when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent. MPEP 804 B.1.

As the examiner notes, the "'845 [patent] differs from the claimed invention because it does not disclose a sensor." Applicants respectfully submit that the claims of the '845 patent do not further render obvious the pending claims, for the following reasons. First, there is no suggestion or motivation in the claims of the '845 patent alone, or in combination with the Charboneau patent, suggesting a composite tube that includes a pressure barrier layer, a composite layer formed of fibers and a matrix, and a sensor coupled to the wall of the tube, as required by all the claims of the instant application. "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." *In re Mills*, 916 F.2d. 680 (Fed. Cir. 1990). The '845 claims do not suggest a desirability of the claimed invention, nor does the Charboneau patent suggest the desirability of, for example, a sensor coupled to the wall of a tube as recited in the instant claim 1.

Furthermore, neither the claims of the '845 patent nor the Charboneau patent teach or suggest a composite tube that *includes a sensor coupled to the wall a tube*. As the Examiner knows obviousness can be established only when all claim limitations are taught or suggested. Accordingly, withdrawal of the rejection under the doctrine of obviousness-type double patenting is respectfully requested.

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Claims 1-61 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. 6,148,8[66] (the '866 patent) in view of Charboneau, U.S. Patent 5,551,484.

As the examiner notes, the '866 patent "differs from the claimed invention because it does not disclose a sensor." Applicants respectfully submit that the claims of the '866 patent do not further render obvious the pending claims, for the following reasons. First, there is no suggestion or motivation in the claims of the '866 patent alone, or in combination with the Charboneau patent, suggesting a composite tube that includes a pressure barrier layer, a composite layer formed of fibers and a matrix, and a sensor coupled to the wall of the tube, as required by all the claims of the instant application.

Furthermore, neither the claims of the '866 patent nor the Charboneau patent teach or suggest a composite tube that includes a sensor *coupled to the wall a tube*. As the Examiner knows obviousness can be established only when all claim limitations are taught or suggested. Accordingly, withdrawal of the rejection under the doctrine of obviousness-type double patenting is respectfully requested

Claims 1-61 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable claims of U.S. 6,70[6],348 Applicant has filed a terminal disclaimer over this commonly owned patent on September 9, 2004. Therefore, Applicant believes this rejection is moot.

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CONCLUSION

In view of the foregoing remarks, Applicants request that the Examiner reconsider and withdraw the pending rejections.

Respectfully submitted,



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Date: February 8, 2005
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